

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GENE J. FRAGAPANE,

Plaintiff,

v.

JAMIE SMITH, ERIC KONINGSBURG
and the UNITED STATES ROTTWEILER
CLUB,

Defendants.

2:05-cv-1775

ORDER OF COURT

AND NOW, this 1st day of June, 2006, upon consideration of the MOTION TO DISMISS PURSUANT TO RULES 12(b)(2) AND 12(b)(5), with brief in support (*Document Nos. 23 & 24*) filed by defendant Eric Koningsburg ("Koningsburg"), and the BRIEF IN RESPONSE AND OPPOSITION TO DEFENDANTS' (*sic*) MOTION TO DISMISS (INCLUDING SUPPORTING AUTHORITY) PURSUANT TO RULE 12(b)(2) AND RULE 12(b)(5) (*Document No. 26*) filed by Plaintiff Gene J. Fragapane ("Plaintiff"), and it appearing that Plaintiff has admittedly failed to properly serve Koningsburg in accordance with Federal Rule of Civil Procedure 4(f) and other applicable international procedures, *see* Koningsburg's Brief in Support at 2-5,

NOW THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that the Motion to Dismiss Pursuant to Rules 12(b)(2) and 12(b)(5) filed by defendant Eric Koningsburg is **GRANTED**, and that defendant Eric Koningsburg is **DISMISSED** from this action without prejudice due to insufficient service of process.

s/ Terrence F. McVerry
United States District Court Judge

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